

REMARKS

As a preliminary matter, Applicants note that the September 7, 2006 Office Action indicates that this application is included in the Accelerated Examination Program. However, Applicants have not petitioned to be included in such a program. Applicants do not believe that the Examiner can *sua sponte* include an application in the Accelerated Examination Program. Applicants respectfully request clarification as to whether this application should be in the Accelerated Examination Program, as well as a citation to the section of the Rules that authorizes the Examiner to *sua sponte* include an application in the Accelerated Examination Program, if inclusion in the program was not an error.

Claims 1-35 stand rejected under 35 U.S.C. §102 (e) as being anticipated by United States Patent Application No. 2004/0191428 to Tsuda et al. Applicants respectfully traverse this rejection.

Applicants note that the foreign priority date of the present application is March 26, 2003, which is the date that Japanese priority application No. 2003-085220 (JP '220) was filed in Japan. On March 22, 2004, foreign priority benefits under 35 U.S.C. §119 to JP '220 were claimed, and a certified copy of the JP '220 was filed. The §102(e) date of the Tsuda et al. reference is March 19, 2004. Thus, the foreign priority date (March 26, 2003) of the instant application is prior to the §102(e) date of March 19, 2004 of the Tsuda et al. reference. Accordingly, upon perfection of the foreign priority claim in the instant application, the §102(e) rejection under Tsuda et al. should be withdrawn. Applicants plan on submitting a verified English translation of JP'220, which is the only outstanding

requirement for perfecting foreign priority. Accordingly, upon the filing of the verified English translation of JP '220, withdrawal of this §102(e) rejection of Claims 1-35 is respectfully requested.

Claims 1-35 also stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of Tsuda et al. Applicants respectfully traverse this rejection.

Enclosed herewith is a Terminal Disclaimer disclaiming the terminal portion of the statutory term of the Tsuda et al. reference. Also enclosed is a check for \$130.00 to cover the Disclaimer fee. Accordingly, withdrawal of this rejection is respectfully requested.

For all of the above reasons, Applicants request reconsideration and allowance of the claimed invention. Should the Examiner be of the opinion that a telephone conference would aid in the prosecution of the application, or that outstanding issues exist, the Examiner is invited to contact the undersigned.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By 
James K. Folker
Registration No. 37,538

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Suite 2500
300 South Wacker Drive
Chicago, Illinois 60606
(312) 360-0080

Customer No. 24978
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